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C O N F I D E N T I A L KUWAIT 003314

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PASS TO USTR PAUL BURKHEAD
NEA/ARP FOR JACKSON

E.O. 12958: DECL: 08/14/2016

TAGS: BEXP EFIN EINV ETRD PGOV KU

SUBJECT: TAX PROBLEMS PERSIST FOR U.S. COMPANIES IN KUWAIT

REF: KUWAIT 2145

Classified By: Ambassador Richard LeBaron for reasons 1.4 (b) and (d).

¶1. (SBU) On 15 August in separate meetings with Finance Minister Badr Meshari Al-Humaidhi and Commerce Minister Falah Fahad Al-Hajri, the Ambassador reiterated USG concerns over the negative effects of ambiguous Kuwaiti tax policies on U.S. companies. The Ambassador emphasized that the confusing and seemingly inconsistent application of Kuwaiti tax law to foreign companies doing business in Kuwait continued to present a significant obstacle to progress on the USG-GOK Trade and Investment Framework Agreement (TIFA) talks. (Note: The next round of these talks is scheduled for 5 September in Washington. End note.)

¶2. (C/NF) The Finance Minister acknowledged that the existing tax policy was "unfair" but complained that despite the efforts of the Government, the National Assembly was so far unwilling to change the tax law. He elaborated that the Finance Ministry had been working on two tracks: one to change the existing law, and another to introduce a new, comprehensive law. When the Ambassador brought up a specific case regarding a U.S. company, the Finance Minister initially answered that an official interpretation of the tax law published by the Council of Ministers, described in reftel, should have resolved that case in the U.S. company's favor. After making a phone call to an assistant, he then qualified his answer, saying that since this case was already in the court system, it would be up to the courts to decide if the Council of Ministers' interpretation should be applied. Humaidhi at first stated that the interpretation was already in effect, but when pressed, he was unable to identify a case in which the interpretation had actually been applied. In summarizing the tax issue, Humaidhi said that he recognized the problems with the existing tax policy but feared that with "too many issues to manage" the National Assembly was unlikely to change the law.

¶3. (C/NF) The new Commerce Minister also said that any changes in tax policy would ultimately be up to the National Assembly. He referred to the draft law which would lower the maximum tax rate on corporations from 55% to 15%, but reiterated that its passage would be a matter for the National Assembly to decide. In the same meeting, Undersecretary of Commerce Rashid Al-Sayed Yousef Al-Tabtabaei expressed his belief that the Council of Ministers' interpretation had largely resolved the tax issue.

¶4. (U) Referring to recent reporting in the local press, the Ambassador asked the Minister of Commerce whether the Government was considering the implementation of a consumption tax. The Minister indicated that there had been

no significant movement on this matter and that discussions were still in a very early stage.

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LeBaron